

ORDINANCE NO 91011501

AN ORDINANCE PROVING RULES AND REGULATIONS GOVERNING QUARRIES, MINES AND SAND OR MINERAL SURAFCE MINING OPERATIONS WITHIN THE CITY OF SIMONTON, TEXAS; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$500 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; AND PROVING FOR SEVERABILITY.

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SIMONTON, TEXAS:

Section 1. Applicability. Every quarry, mine and sand or mineral surface mining operation within the corporate limits of the City shall be governed by the terms and provisions of this Ordinance.

Section 2. Data to be Submitted. Prior to the implementation of a new quarry, mine or sand or mineral surface mining operation or the continued operation of such an existing facility, the owner and/or operator shall submit to the City council of the City a large scale survey which provides the following:

- (a) Name or proposed name of the operation or business;
- (b) Legal description of the boundaries of the tract upon which the facilities and operation are or will be located, indicating the total acreage;
- (c) Name and address of the landowners and operator. If a company or corporation, the name and address of the officers shall be provided;
- (d) Name of the registered professional engineer or registered public surveyor responsible for the survey;
- (e) Drawn on a scale of one inch (1") equals one hundred feet (100') minimum except as otherwise approved by the City Council;
- (f) North point (true and magnetic) and date;
- (g) A location sketch, preferably in upper right corner of the survey, showing the relation of the tract to well-known streets, railroads, and watercourses in all directions to a distance of at least one (1) mile. Suggested scale: One inch (1") equals one (1) mile;
- (h) Boundaries of ownership with bearings and overall dimensions, with
 - (1) Area of tract drawn in heavy lines with overall dimensions and bearings;
 - (2) Lines outside of boundaries to be dashed; and
 - (3) An accurate location of the tract in reference to the real estate records of the county in which the land lies, showing a tie to a well-established point for plats inside the City limits or to a survey corner if outside the City limits;
- (i) Contours of the natural ground surface with intervals of five-tenths foot (0.5'), referred to sea level (U.S. Coast and Geodetic Survey) datum, as required to show at least two (2) contours within the tract in addition to

those necessary to clearly show outfall drainage. Identify basis of control and temporary benchmark set within the tract;

- (j) The names of adjacent subdivisions or the names of recorded owners of adjoining parcels of land;
- (k) The location, widths, and names of all existing streets or other public ways within or adjacent to the tract, existing permanent buildings, railroad right-of-way, easements and other important features, such as section lines or political subdivision lines on all sides for a distance of not less than two hundred feet (200'); and
- (l) Existing sewers, water mains, culverts, pipelines or other underground structures and other public utilities within the tract and immediately adjacent thereto with pipe sizes, grades, name of ownership of oil, gas, or electric easements and locations indicated.

Section 3. Unlawful Acts or Omissions. It shall be unlawful for any person, firm, or corporation or other entity engaged in, or upon whose property there is conducted, any quarry, mining or sand or mineral extraction operation to cause, allow, or acquiesce in any of the following acts or omissions:

- (a) Excavating or extracting within one hundred feet (100'), horizontally, of the operation property boundaries;
- (b) Excavating or extracting within one hundred feet (100'), horizontally, of any public right-of-way, railroad right-of-way, or public or private easement;
- (c) Excavating or extracting in a manner resulting in side walls of a pit or open mine not sufficiently sloped or stabilized to prevent significant erosion or caving;
- (d) Failing to provide surface drainage so as to prohibit any significant runoff from entering into any pit or open mine;
- (e) Discharging water from a pit or open mine into public drainage easement or stream not filtered or settled to minimize the silting of such easement or stream;
- (f) Dumping or disposing of trash, garbage or waste in any pit or open mine unless permitted in accordance with all applicable federal, state, and local regulatory authorities;
- (g) Further excavating or extracting deeper than fifteen feet (15') below the natural surface of the unexcavated land adjacent to the pit or open mine;
- (h) Conducting an operation located within two hundred feet (200') of a public thoroughfare or within two hundred feet (200') of a residence or business establishment on adjacent property unless such pit or open mine is surrounded by a fence or wall at least six feet (6') in height or a natural or manmade barrier. Natural or manmade barriers shall mean obstacles including, but not limited to, lakes, creeks, ravines, or ditches, which, because of their depth, density, height or slope, constitute a barrier to a person's entrance upon the operation property with at least equal effectiveness as the fencing requirements herein. All such barriers, whether manmade or natural, shall be maintained at all times so as to

assure their continued and constant effectiveness as barriers as contemplated hereby; or

- (i) Failing to impose controls to ensure that dust, vapor, odor and noise emitting from the operation is not of such a degree as would disturb a person of ordinary sensibilities under the same or similar circumstances residing or situated in the vicinity.

Section 4. Abandoned Pits and Open Mines. The owner of the land on which is located any quarry, pit or open mine which has been abandoned shall be subject to the provisions of Section 3 hereof.

Section 5. Compliance of existing Operations. The provisions of Section 3 of this Ordinance shall not be applicable to existing or abandoned operations until one hundred eighty (180) days following the date of adoption hereof.

Section 6. Penalty. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$500. Each day of violation shall constitute a separate offense.

Section 7. Severability. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair or invalidate this ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Simonton, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

PASSED, APPROVED, AND ADOPTED this _____ day of _____,

Mayor

ATTEST:

City Secretary